IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

BHUSHAN PETITIONER

VERSUS

STATE OF HARYANA RESPONDENT

CORAM : HON'BLE MR.JUSTICE MEHTAB S.GILL

Present:- Mrs.Sudesh Sharma, Advocate for Shri S.D.Bansal, Advocate for the petitioner.

Shri S.S.Patter, Senior D.A.G. Haryana.

MEHTAB S.GILL, J.

This revision petition has been filed against the judgment/order dated 20.3.1992 of the Judicial Magistrate Ist Class, Panipat whereby he convicted the petitioner under Section 16(1)(a)(i) of the Prevention of Food Adulteration Act (hereinafter referred to as the Act) and sentenced him to undergo RI for six

months and to pay a fine of Rs.1000/-, in default, to further undergo RI for three months. Appeal filed by the petitioner against the said judgment was dismissed by the Additional Sessions Judge, Panipat vide judgment dated 26.10.1994.

The prosecution case in brief is that on 27.10.1983 A.N.Sharma, Government Food Inspector along with Dr.O.P.Goggia and Ram Sarup, an independent witness, inspected the shop of petitioner Bhushan situated on Jatal Road, Panipat. Petitioner was having about 10 litres of cow milk consigned in a container (Pateela) for public sale. After giving notice Ex.PA, the Food Inspector demanded a sample of cow milk. The milk was stirred and mixed thoroughly. 660 ml. of milk were purchased against payment of Rs.2/- vide receipt Ex.PB. The purchased milk was put into 3 dry and clean bottles equally. In each bottle 18 drops of formalin were added as preservative. Bottles were labelled and corked. At the neck of each bottle, seal of Dr.O.P.Gogia was affixed. Necessary formalities were completed.

The prosecution to prove its case, brought into the witness-box A.N.Sharma PW-1, Dr.O.P.Gogia PW-2 and Dr.Dilgulzar Singh PW-3.

Learned counsel for the petitioner has argued that before taking the sample, milk was not stirred properly to make it homogeneous and petitioner is entitled to be acquitted on this score. Learned counsel for the petitioner has further argued that petitioner has nothing to do with the shop in question. Petitioner was joined by the Government Food Inspector A.N.Sharma PW-1 in the process of taking the sample as a witness. Petitioner was actually running a Maniari shop/Radio repairing shop at Gohana Road, Panipat.

Learned counsel for the petitioner has stated that he does not want to

assail the judgment of the learned trial Court on the part of conviction. However, he has prayed that sentence of the petitioner may be reduced to the period already undergone.

I have heard the learned counsel for the parties and perused the impugned judgment.

The learned trial Court has rightly held the petitioner guilty of commission of offence punishable under Section 16(1)(a)(i) of the Act. I do not find any infirmity in the judgment of the learned trial Court.

Conviction of petitioner is maintained.

This Court in Mahavir v. State through Govt.Food Inspector 2000 (4) R.C.R. (Cri.) 208 has held that ends of justice would be met if sentence of the petitioner is reduced to that already undergone. Similarly, Hon'ble Delhi High Court in Babu Ram v. State 2001(4) R.C.R. (Cri.) 785 – a case under the Prevention of Food Adulteration Act, 1954 has held that that is a case where the ends of justice would be met, if sentence is reduced to that already undergone.

Revision is of the year 1994 and sample was taken in the year 1983. Sword of conviction has been hanging over the head of the petitioner for the last 24 years. This itself is a punishment. Sentence of petitioner is modified to that already undergone.

With the above modification in sentence, revision petition is dismissed.

(MEHTAB S.GILL)
JUDGE

August 8, 2007
GD

WHETHER TO BE REFERRED TO REPORTER? YES/NO